

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

---

**KENDEL L. THOMAS,**  
**Petitioner,**

**v.**

**Case No. 10-C-0538**

**ANA BOATWRIGHT,**  
**Respondent.**

---

**ORDER**

Kendel L. Thomas filed this petition pursuant to 28 U.S.C. § 2254, asserting that his state court conviction and sentence were imposed in violation of the Constitution. In 2005, petitioner was convicted in Milwaukee County Circuit Court of being party to the crime of armed robbery and was sentenced to thirteen years of initial confinement and ten years of extended supervision.

Pursuant to Rule 4 of the Rules Governing § 2254 Cases, I must give the case prompt initial consideration.

If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner. If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

Rule 4, Rules Governing § 2254 Cases. During my initial review of habeas petitions, I look to see whether the petitioner has set forth cognizable constitutional or federal law claims and exhausted available state remedies.

Because it is clear that petitioner is not entitled to relief, I will summarily dismiss the petition. Petitioner states that the sentencing court erroneously exercised its discretion by failing to consider the applicable state sentencing guidelines. The court of appeals rejected this claim, finding that the court properly considered the factors called for in the guidelines. Petitioner raises no other grounds for relief. His claim involves a state law issue not one of federal law. Thus, it is not cognizable in this forum. Habeas relief may be granted only when custody is in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a); Bloyer v. Peters, 5 F.3d 1093, 1098 (7th Cir. 1993). Also, I cannot review a state court's sentencing decision absent an allegation that the court lacked jurisdiction or committed a constitutional error making the sentence fundamentally unfair. Koo v. McBride, 124 F.3d 869, 875 (7th Cir. 1997).

**THEREFORE, IT IS ORDERED** that, pursuant to Rule 4 of the Rules Governing § 2254 Cases, this petition is **SUMMARILY DISMISSED**.

Dated at Milwaukee, Wisconsin, this 13 day of July, 2010.

/s \_\_\_\_\_  
LYNN ADELMAN  
District Judge